

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09CV385-3-MU**

RODNEY MOUCELL JONES,)
)
 Plaintiffs,)
)
 v.)
)
 RON MOORE; JASON WILSON;)
 BUNCOMBE COUNTY,)
)
 Defendants.)
 _____)

ORDER

This matter is before the Court on Plaintiff’s “59(E) Motion” (Doc. No. 10.) Plaintiff originally filed a Complaint pursuant to 42 U.S.C. § 1983 against named Ron Moore, District Attorney of Buncombe County, Jason Wilson, Public Defender of Buncombe County and Buncombe County. (Doc. No. 1.)

In accordance with the Prisoner Litigation Reform Act (“PLRA”), which allows the court to dismiss a prisoner’s action, “if the prisoner has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or an appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or for failure to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g), the Court determined that Plaintiff had at least three cases dismissed on one of these grounds. Such cases were identified in a footnote in the Court’s Order. (Doc. No. 4.)

Plaintiff seeks reconsideration of the Court’s Order and argues that the Court did not specifically refer to the actions dismissed on the grounds articulated in 28 U.S.C. § 1915(g). Plaintiff

is incorrect, as this Court identified such actions in footnote 1 (Doc. No. 4.) Next, Petitioner contends that this Court erred in dismissing his Complaint without assessing his ability to make and or pay the full or partial filing fee. Plaintiff's citation to U.S. v. Jones, 215 F.3d 467 (4th Cir. 2000) in support of this argument is inapplicable to the facts of this case.

The Court has reviewed Plaintiff's Complaint and the instant motion and Plaintiff has not advanced any argument that causes this Court to alter its previous ruling. Therefore, Plaintiff's motion for reconsideration is DENIED.

SO ORDERED.

Signed: November 19, 2009

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

